

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

UNITED STATES OF AMERICA

v.

BYRON CARDOZO,

Defendant

Crim. No. 18-CR-10251-ADB

GOVERNMENT’S SENTENCING MEMORANDUM

The United States of America respectfully submits this memorandum in advance of defendant Byron Cardozo’s sentencing hearing on December 12, 2019. For the reasons set forth below, the arguments to be presented at the sentencing hearing, and based upon consideration of the advisory guidelines sentencing range (“GSR”) and all of the sentencing factors identified in 18 U.S.C. § 3553(a), the government respectfully recommends that the Court impose a sentence of incarceration of 63 months, to be followed by a 36-month term of supervised release.

I. Background

On August 20 2019, Cardozo pleaded guilty to an Indictment charging him with one count of Cyberstalking in violation of 18 U.S.C. § 2261A(2)(B) and one count of making Interstate Threats in violation of 18 U.S.C. § 875(c).

The Presentence Report (“PSR”) accurately summarizes Cardozo’s conduct (PSR ¶¶ 8-39).

II. Advisory Guidelines Sentencing Range and Statutory Maximums

The PSR accurately calculates the defendant’s Total Offense Level as 19. (PSR ¶ 53). The defendant’s extensive criminal history results in a Criminal History Category of VI. (PSR ¶

68). The resulting Guidelines Sentencing Range is 63 months to 78 months imprisonment. (PSR ¶ 113).

The statutory maximum term of imprisonment for each Count is 5 years (60 months). The Government seeks a low-end GSR term of imprisonment of 63 months, and suggests a 60-month term of incarceration on the cyberstalking count and a 3-month consecutive term of incarceration on the interstate threats count.

III. A Guidelines Term of Incarceration for Byron Cardozo is an Appropriate Specific Deterrent that Considers the History and Characteristics of the Defendant

Byron Cardozo is a menace. He has brought pain and terror into the lives of the girls and women around him since he was a young man. He appears to have no ability to control his dark impulses, and he lashes out at those who stand up to him—even when their only request of him is that he simply leave them alone. He has repeatedly shown a lack of respect for the law and law enforcement—violating multiple orders of protection obtained by his victims. (PSR ¶ 38). His past behavior has demonstrated that a lengthy term of incarceration is the only effective tool to specifically deter Cardozo from criminal conduct.

The PSR documents specific and disturbing instances of violence and aggression in Cardozo's past, including the conduct underlying his prior convictions. The Government here highlights only examples of the conduct uncovered in the course of this investigation that demonstrate the history and characteristics of this defendant.

Jane Doe 1

Cardozo's conduct toward Jane Doe 1 is outlined in the Indictment, which describes the escalating online attacks that occurred after she published an article in December 2016. The Indictment includes the graphic language and threatening measures he used in his campaign against her from the date of publication until his arrest 18 months later.

Before deciding to write the article, Jane Doe 1, who had known Cardozo since she was in middle school and he was in high school, had repeatedly rebuffed Cardozo's many attempts to contact her online. (PSR ¶ 11). Once the story came out, his desperate affection for her turned to aggression. In addition to the charged conduct, Cardozo expressed this aggression in talking about Jane Doe 1 to another former classmate, stating: "im going to really sexually assult that chink this time." (Jane Doe 1 is Asian-American). (PSR ¶ 34). He later told the same classmate: "i should have really raped her cunt ass," and "i hate this bitch...every time i read this sotry i want to choke her." Id.

Jane Doe 2

Jane Doe 2 was a classmate of Jane Doe 1, and had a relationship with Cardozo when he was in high school and she was in middle school. (PSR ¶ 10). Cardozo has relentlessly attempted to reestablish a relationship with Jane Doe 2 since then, obsessing over her for over fifteen years, despite her repeated pleas for him to leave her alone. (PSR ¶ 28). Cardozo repeatedly created multiple false online accounts in order to continue communicating with Jane Doe 2 after she blocked his accounts. Id. Jane Doe 2 estimates that Cardozo attempted to contact her using approximately 20 false accounts. Id. She has begged him repeatedly to leave her alone, and Cardozo was instructed by her local police department to stop contacting her, but he has continued to send her online and mail communications professing his love for her. (PSR ¶ 30, 31).

Jane Doe 3

When Jane Doe 3 was 16 and 17, she worked with Cardozo at a fast food restaurant. (PSR ¶ 33). Cardozo, who was 32 at the time, attempted to pursue a romantic relationship with her. Id. She rebuffed him and complained to her manager. Id. Cardozo became angry and at one point threw a potato peeler at Jane Doe 3. Id. Later, during another confrontation at work, he

angrily grabbed her wrist forcefully enough to leave a bruise. Id. When Jane Doe 3, with the help of her parents, successfully obtained a restraining order against Cardozo, he tried to avoid being served with the injunction and repeatedly called and texted Jane Doe 3, threatening to come to the restaurant and “slit her throat.” Id. Jane Doe 3 is still traumatized by her interactions with Cardozo. Id. She feared for her safety, quit her job, and was visibly upset when agents interviewed her years later. Id.

Jane Doe 4

Following Cardozo’s arrest, during the search of his electronic devices, the Government uncovered communications between Cardozo and a high school classmate that not only discussed Jane Doe 1 (as referenced above), but also described in detail his sexual assault of a seven-year-old Jane Doe 4. (PSR ¶ 33). The discussions included the following exchanges:

- CARDOZO: I was staying at this rooming house with some 30 yr old with a 7 yr old who jerke me off and gave me head. Shes the one who wanted to do i i never forced her or even touched her. She told me she watched porn with her mom. . . Ill say u made that up if u blab
- John Doe 1: High 5
- CARDOZO: It was pretty exciting but I moved out soon after cause i felt so bad
- John Doe 1: Yea...still....High 5
- CARDOZO: I felt bad for her her mos a ungly junky but she was so cute. See i rape you but in a way that just feels like games. She let me record our sessions but I ended up deleting them cuase it was wrong shes gunna be in porn i know it . . . (PSR ¶ 36).

Cardozo’s explicit discussions, including the one above, not only detail how he repeatedly sexually assaulted a seven-year-old girl, but also reveal production of child pornography. (PSR ¶ 37). During one of these conversations, Cardozo claimed to have destroyed his child pornography due to concerns that law enforcement would find it. Id.

Cardozo also discussed obtaining child pornography with John Doe 1, and they shared information regarding anonymization techniques to avoid being caught with child pornography. Id. Cardozo was unwilling to assist law enforcement in this case in locating the child. Id. Nevertheless, law enforcement has since been able to identify her. She is now 15 years old. Id. The girl confirmed that Cardozo had repeatedly engaged in sexual conduct with her when she was seven. Id.

CONCLUSION

For the above reasons, and for the reasons that the government intends to argue at sentencing, the government asks the Court to impose on Cardozo a term of incarceration of 63 months, the low end of the applicable guideline sentencing range, to be followed by a 36 month term of supervised release.

Respectfully submitted,

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Dated: December 8, 2019

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF).

/s/ Amy Harman Burkart

Amy Harman Burkart

Assistant United States Attorney

Date: December 8, 2019